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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/600,383 | 06/20/2003 | Travis M. Drucker | ROC920030172US1 | 8543 |
| 46797 | 7590 | 08/24/2006 | EXAMINER | |
| IBM CORPORATION, INTELLECTUAL PROPERTY LAW DEPT 917, BLDG. 006-1 3605 HIGHWAY 52 NORTH ROCHESTER, MN 55901-7829 | | | MIZRAHI, DIANE D | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2165 | |

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,383

Applicant(s)

DRUCKER ET AL.

Examiner

DIANE D. MIZRAHI

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7-11-06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

III. DETAILED ACTION

Claims 1 and 3-28 are presented for examination.

Applicant's arguments submitted on July 11-06, 2006 with respect to claims 1 and 3-28 have been reconsidered but are not deemed persuasive for the reasons set forth below.

Examiner's USC 101 rejection of claims 1 and 3-28 is maintained. Examiner asserts that 1 and 3-28 are rejected under 35 U.S.C. 101 because the claims are directed to a non-statutory subject matter, specifically, the claims are not directed towards the final result that is "useful, tangible and concrete. (See State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

According to the New Guidelines of October 26, 2005, which states that "A claim limited to a machine or manufacture, which has a practical application, is statutory. In most cases a claim to a specific machine or manufacture will have a practical application. See Alappat, 33 F.3d at 1544, 31 USPQ2d at 1557)... a specific machine to produce a useful, concrete, and tangible result and State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

(Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility
<[http://rs6.net/tn.jsp?t=mdmd7pbab.0.kbg76pbab.p9qiibab.7440&p=http%3A%2F%2Fwww.uspto.gov%2Fweb%2Foffices%2Fpac%2Fdapp%2Fopla%2Fpreognotice%2Fguidelines101 20051026.pdf](http://rs6.net/tn.jsp?t=mdmd7pbab.0.kbg76pbab.p9qiibab.7440&p=http%3A%2F%2Fwww.uspto.gov%2Fweb%2Foffices%2Fpac%2Fdapp%2Fopla%2Fpreognotice%2Fguidelines101%20051026.pdf)>)

Examiner requests Applicant to include in Applicant's claimed limitations (in all the claims) the following:

What is the practical application?

What is the result?

What is final result that is concrete, useful and tangible?

Examiner believes that claims 1 and 3-28 do not provide a physical transformation to a different state, a useful, concrete and tangible result. There appears to be no final result.

The office action dated April 11, 2006 is maintained. Regarding Applicant's newly submitted amendment, a new office is cited below :

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-7, 10-18 and 20-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Pierre Bensoussan et al. (US Patent No. 6,581,068 B1 and Bensoussan hereinafter).

Regarding Claims 1 and 11, Bensoussan teaches a method for referencing a data selection, from a collection of data, comprising: creating an annotation associated with the plurality of data points; (i.e. comments) (col 3, lines 32-43); creating an edge definition for plurality of data points comprising information which defines at least two edges that bind the plurality of data points wherein the edge definition (i.e. spreadsheet) (col 5, lines 30-39) comprises a fewer number of data points (Figure 3, #15) than the plurality of data points (i.e. comments) (col 3, lines 32-43); storing an annotation (col 3, lines 32-43); and storing the edge definition in a manner allowing retrieval of the annotation on the basis of the edge definition for a specified set of plurality of data points (i.e. reads on storing in a database) (col 12, lines 56-64).

Regarding Claim 3, Bensoussan teaches storing the edge definition in a manner allowing retrieval of the annotation on the basis of the edge definition for a specified set of plurality of data points (i.e. reads on storing in a database) (col 12, lines 56-64) creating an index for the annotation (i.e.

indexing) (col 9, lines 25-34) and storing the edge definition with the index (i.e. reads on storing in a database) (col 12, lines 56-64).

Regarding Claim 14, Bensoussan teaches an annotation (i.e. comments) (col 3, lines 32-43).

Regarding Claims 3, 13 and 15-16, Bensoussan teaches creating an index for the reference and storing the edge definition with the index (i.e. indexing) (col 9, lines 25-34).

Regarding Claim 4, Bensoussan teaches a discontinuous set of data points (i.e. cell). (col 11, lines 57-63).

Regarding Claims 5 and 12, Bensoussan teaches partitioning the data selection into sections of contiguous data points; and creating an edge definition for each section of contiguous data points, the edge definition for each section containing sufficient information to define one or more bounding edges of the corresponding section (i.e. reads on spreadsheet) (col 11, lines 35-42).

Regarding Claim 6, Bensoussan teaches list of data points defining a horizontal edge and a vertical edge of the two-dimensional array, each data point specified by a row value and a column value (i.e. reads on spreadsheet) (col 11, lines 35-42) see also (col 13, lines 39-55).

Regarding Claim 7, Bensoussan teaches a list of row values and a list of column values, the lists combinable to generate a set of data points defining a horizontal edge (col 13, lines 39-55) see also (col 5, lines 30-39).

Regarding Claim 18, Bensoussan teaches at least three dimensions (Figure 4 data structure core cube).

Regarding Claims 17 and 20-28, the limitation of this claim is similar in scope to the rejected claims above and is rejected as set forth above.

Claim Rejections - 35 USC 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierre Bensoussan et al. (US Patent No. 6,581,068 B1 and Bensoussan hereinafter) in view of Ioan Al. Salomie (US Publication No. 20030052875 A1 and Salomie hereinafter).

The teachings of Bensoussan have been discussed above.

Regarding Claims 8,9 and 19, Bensoussan does not teach data selection is bound by a surface of a sphere and radius of a sphere.

Salomie teaches data selection is bound by a surface of a sphere and radius of a sphere (Figure 30).

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Bensoussan with the teachings of Salomie to include data selection is bound by a surface of a sphere and radius of a sphere with the motivation to efficiently store, exchange and process data and for the speed and quality of data Salomie [0005].

Applicant's remarks are considered moot, and does not place the application in condition for allowance. Examiner asserts that "every limitation positively recited in a claims was given effect in order to determine what the subject matter that the claim defines" In re Wilder, 166 USPQ 545, 548 (CCPA 1970). Examiner believes that claims 1 and 3-28 are not allowable over the prior art of record cited in this Final Office Action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. U.S. patents and U.S. patent application publications will not be supplied with Office actions. Examiners advises the Applicant that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site (www.uspto.gov), from the Office of Public Records and from commercial sources. For the use of the Office's PAIR system, Applicants may refer to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened

Art Unit: 2165

statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane D. Mizrahi whose telephone number is 571-272-4079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272-4146. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 305-3900 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

A handwritten signature in black ink, appearing to be 'Diane Mizrahi', is written over a horizontal line.

Diane Mizrahi
Primary Patent Examiner
Technology Center 2100

August 20, 2006